



THE CITY OF NEW YORK
LAW DEPARTMENT
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September 13, 2010

BY ECF

Honorable Eric N. Vitaliano
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Bryan Padilla, et al. v. City of New York, et al.,
09 CV 2004 (RJD)(JO)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above referenced matter. Enclosed please find a duly executed Stipulation and Order of Settlement and Dismissal for Your Honor's endorsement and filing.

Thank you for your consideration herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Qiana Smith-Williams".

Qiana Smith-Williams
Assistant Corporation Counsel

cc: Brett Klein, Esq. (By ECF)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BRYAN PADILLA, LUIS RAMIREZ, THOMAS
NIEVES, JOSE MONTANEZ, DENICE PEREZ, LUIS R.
GONZALEZ, STACEY MEDINA, EVIDO DE LA CRUZ,
LOUIS PADILLA, NELSON DELEON, KATRIN
SNYDER, CHRISTOPHER ROMANO, JUSTIN LOPEZ,
EDWIN HERNANDEZ, MARCUS RODRIGUEZ, suing
on behalf of themselves and all others similarly situated,

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISMISSAL**

09 CV 2004 (ENV)(SMG)

Plaintiffs,

-against-

CITY OF NEW YORK, DANIEL BYRNE, JOHN
FITZGIBBONS, ANTHONY COTRONEO, and JOHN
and JANE DOE 1 through 60, individually and in their
official capacities, (the names John and Jane Doe being
fictitious, as the true names are presently unknown),

Defendants.

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WHEREAS, plaintiffs commenced this action on or about May 11, 2009, by
filing a complaint alleging, *inter alia*, violations of their state law rights and civil rights pursuant
to 42 USC § 1983; and

WHEREAS, plaintiffs filed an amended complaint in this action on or about May
17, 2010; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs'
allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation,
without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiffs have authorized their counsel to settle this matter on the
terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraphs "2" through "16" below.

2. The City of New York hereby agrees to pay plaintiff Bryan Padilla the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Bryan Padilla agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

3. The City of New York hereby agrees to pay plaintiff Luis Ramirez the sum of Nine Thousand Dollars (\$9,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Luis Ramirez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

4. The City of New York hereby agrees to pay plaintiff Thomas Nieves the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising

under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Thomas Nieves agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

5. The City of New York hereby agrees to pay plaintiff Jose Montanez the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Jose Montanez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

6. The City of New York hereby agrees to pay plaintiff Denice Perez the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Denice Perez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

7. The City of New York hereby agrees to pay plaintiff Luis R. Gonzalez the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Luis R. Gonzalez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

8. The City of New York hereby agrees to pay plaintiff Stacey Medina the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Stacey Medina agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

9. The City of New York hereby agrees to pay plaintiff Evido De La Cruz the sum of Nine Thousand Dollars (\$9,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Evido De La Cruz agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the

City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

10. The City of New York hereby agrees to pay plaintiff Louis Padilla the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Louis Padilla agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

11. The City of New York hereby agrees to pay plaintiff Nelson Deleon the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Nelson Deleon agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

12. The City of New York hereby agrees to pay plaintiff Katrin Snyder the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Katrin Snyder agrees to the dismissal of all claims against

defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

13. The City of New York hereby agrees to pay plaintiff Christopher Romano the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Christopher Romano agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

14. The City of New York hereby agrees to pay plaintiff Justin Lopez the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Justin Lopez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

15. The City of New York hereby agrees to pay plaintiff Edwin Hernandez the sum of Nine Thousand Dollars (\$9,000.00) in full satisfaction of all claims, whether arising

under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Edwin Hernandez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

16. The City of New York hereby agrees to pay plaintiff Marcus Rodriguez the sum of Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, whether arising under federal or state law, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff Marcus Rodriguez agrees to the dismissal of all claims against defendants City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo, and to release all defendants and all present and former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses and attorney's fees.

17. Plaintiffs shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, General Releases based on the terms of paragraphs "2" through "16" above and Affidavits of Status of Liens. If Medicare has provided payment and/or benefits to any plaintiff for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, said plaintiff shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if

future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

18. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation and settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

19. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof including the New York City Police Department.

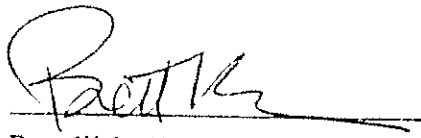
20. Plaintiffs agree to hold harmless the City of New York, Daniel Byrne, John Fitzgibbons, and Anthony Cotroneo regarding any liens or past and/or future Medicare payments, presently known or unknown in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.


21. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein

Dated: New York, New York
August 24, 2010

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By: 
Brett Klein, Esq.

By:  8/31/10
Qiana Smith-Williams
Sumit Sud
Assistant Corporation Counsel

SO ORDERED:

ERIC N. VITALIANO, U.S.D.J.